IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8663 of 2007
With
SPECIAL CIVIL APPLICATION No. 5290 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYVANTBHAI TAPUBHAI PATGIR
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR JAYESH A KOTECHA for the Petitioners
Mr Neeraj Soni, Assistant Government Pleader for the respondents

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 21/06/2007

COMMON ORAL JUDGMENT

Both these petitions have been directed against the order of respondent No.3 and 2 dated 5.12.2006 and 20.11.2004 respectively whereby the request of the petitioners to renew the licence under the Arms Act for possessing fire arms has been rejected.

I have heard Mr Jayesh Kotecha, learned advocate for the petitioners and Mr Neeraj Soni, learned Assistant Government Pleader for the respondents. I have also perused the record of the petition. It appears that initially the petitioners were given licence to possess fire arm to enable them to protect their crop in the fields. However, subsequently, the petitioners got involved in a criminal case where allegations against them are that they along with other accused of the said case i.e. C.R.No.I 73 of 2004 registered with Gadhda Police Station and committed offences which are made punishable under Sections 146,147, 148, 149, 307, 324, 504, 506(2) of the Indian Penal Code as well as under Section 25(1) of the Arms Act. Keeping in view this fact, the authorities have refused to renew the licence expressing the apprehension that these weapons maybe used by the petitioners in commission of similar offences. It is the submission of Mr Kotecha, learned advocate for the petitioners that the petitioners have not used the weapons in question in committing the crime. The weapon has been used by original accused No.2 of the said case. However, the authorities have stated that since there is rivalry between two communities which have large families and they are headstrong persons, there is every possibility of repetition of the offence and hence it was not desirable to renew the licence. In my opinion, the apprehension expressed by respondents Nos.2 and 3 is well-founded, particularly when the petitioners and other accused have been released on bail by the competent court. If they are allowed to have fire arms in these

circumstances, there is possibility that these weapons maybe used by them in commission of similar offences. Hence, I do not find anything illegal or wrong in the orders passed by respondent No.2 and 3.

Mr Kotecha has also submitted that no opportunity of hearing is granted to the petitioners by the authorities. However, on going through the order of the appellate authority, it clearly appears that the petitioners had remained present and in person they presented written reply also. In view of the same, there is no reason for me to believe that no personal hearing has been granted.

Hence, these petitions are dismissed. Rule is discharged.

(Akshay H Mehta, J.)

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